

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN RE:)	
)	
CLEMMER'S CONSTRUCTION, LLC)	CASE NO. 23-40136
)	CHAPTER 11
Debtor.)	
_____)	

**AMENDED INTERIM APPLICATION OF R. KEITH JOHNSON
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
FOR THE PERIOD FROM 14 OCTOBER 2023 THROUGH 20 NOVEMBER 2023**

Name of Applicant: R. Keith Johnson

Authorized to Provide Professional Services to: Clemmer's Construction, LLC

Date of Retention: 19 July 2023

Compensation and reimbursement is sought for the period from 14 October 2023 through 20 November 2023. R. Keith Johnson has not yet received any payments for services rendered or expenses incurred during this period.

Amount of compensation sought as actual, reasonable, and necessary: \$5,275.00

Amount of expense reimbursement sought as actual, reasonable, and necessary: \$20.70

This is a/an: _____ monthly XXXX interim _____ final application

If this is not the first application filed, disclose the following for each prior application:

Date Filed	Period Covered	Requested		Approved	
		Fees	Expenses	Fees	Expenses
8/30/2023	8/4/2023 – 8/29/2023	\$11,100.00	\$44.60	\$11,100.00	\$44.60
10/13/2023	8/30/2023 – 10/13/2023	\$8,675.00	\$0.00	\$8,675.00	\$0.00

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IN RE:

CLEMMER'S CONSTRUCTION, LLC

Debtor.

CASE NO. 23-40136
CHAPTER 11

**AMENDED INTERIM APPLICATION OF R. KEITH JOHNSON FOR
ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR
THE PERIOD FROM 14 OCTOBER 2023 THROUGH 20 NOVEMBER 2023**

Pursuant to sections 330 and 331 under title 12 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code") and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), R. Keith Johnson ("Johnson") hereby requests that this Court award him reasonable compensation for professional services rendered as counsel to the above-captioned debtor (the "Debtor") in the amount of \$5,275.00, together with reimbursement for actual and necessary expenses incurred in the amount of \$20.70 for the period commencing 14 October 2023 through 20 November 2023 (the "Fee Period"). In support of this application (the "Application"), Johnson respectfully represents and states as follows:

BACKGROUND

1. Johnson was retained to represent the Debtor as counsel to the Debtor in connection with this bankruptcy case. Johnson agreed to be compensated on an hourly basis and to be reimbursed for actual and necessary out-of-pocket expenses.

COMPENSATION TO BE PAID AND ITS SOURCE

2. All services for which Johnson requests compensation were performed for or on behalf of the Debtor.

3. Attached hereto as Exhibit A is a detailed statement of fees incurred during the Fee Period, showing the amount of \$5,275.00 due for compensation for the various services rendered.

DISBURSEMENTS

4. Johnson has incurred out-of-pocket disbursements during the Fee Period in the amount of \$20.70 and is listed on Exhibit A hereto.

VALUATION OF SERVICES

5. The nature of the work performed, and the cost of these services performed by Johnson is fully set forth in attached Exhibit A. The rates charged by Johnson professionals are the normal hourly rates charged by Johnson for work of this character. In the Debtor's opinion, the reasonable value of the services rendered by Johnson to the Debtor during the Fee Period far exceeds the fees charged by Johnson.

6. In accordance with the factors enumerated in 11 U.S.C. § 330, the amount requested is fair and reasonable given (a) the complexity of the case, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the costs of comparable services other than in a case under this title.

NOTICE

7. Notice of this Application has been given to (a) the Bankruptcy Administrator for the Western District of North Carolina, (b) those parties requesting notice pursuant to Bankruptcy Rule 2002, (c) the Subchapter V Trustee, and (d) the Debtor.

WHEREFORE, Johnson requests that allowance be made to him in the sum of \$5,275.00 as compensation for necessary professional services rendered to the Debtor for the Fee Period and the sum of \$20.70 for reimbursement of actual, necessary costs and expenses incurred during that period, and further requests such other and further relief as this Court may deem just and proper. The total amount requested to be paid is \$5,295.70.

Dated: November 21, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.

/s/ R. Keith Johnson
R. KEITH JOHNSON
1275 S. NC Bus. Hwy. 16
Stanley, NC 28164
(704) 827-4200
NCSB #8840

Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
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NOTICE OF OPPORTUNITY FOR HEARING

PLEASE TAKE NOTICE that R. Keith Johnson, counsel for Clemmer's Construction, LLC (the "Debtor"), has filed an **Interim Application for Allowance of Compensation and Reimbursement of Expenses for the Period from 14 October 2023 through 20 November 2023**. R. Keith Johnson is seeking allowance of fees in the total amount of \$5,275.00 and expenses in the total amount of \$20.70 for the period from 14 October 2023 through 20 November 2023.

PLEASE TAKE FURTHER NOTICE THAT YOUR RIGHTS MAY BE AFFECTED BY THIS APPLICATION. YOU SHOULD READ THE APPLICATION CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT WITH ONE.

PLEASE TAKE FURTHER NOTICE that in order for a hearing to be held on the Application, written responses to the Application, if any, must be filed on or before fourteen (14) days of the date of this notice (the "Response Deadline") in order to be considered. If you do not want the Court to grant the relief requested in the Application, or if you oppose the Application in any way, you **MUST**:

- (1) File a formal, written response to the Application(s) with the Bankruptcy Court at:

Clerk, United States Bankruptcy Court
Charles R. Jonas Federal Building
401 West Trade Street, Room 111
Charlotte, NC 28202

- (2) Serve a copy of your response on all parties in interest, including:

U. S. Bankruptcy Administrator
402 West Trade Street
Charlotte, NC 28202

R. Keith Johnson
Law Offices of R. Keith Johnson, P.A.
1275 S. NC 16 Bus. Hwy.
Stanley, NC 28164

PLEASE TAKE FURTHER NOTICE that **IF RESPONSES ARE TIMELY FILED, a hearing on the Application will be held on December 15, 2023 at 10:30 a.m. (ET)** before the Honorable J. Craig Whitley at the Cleveland County Courthouse, 100 Justice Place, Shelby, North Carolina 28150.

PLEASE TAKE FURTHER NOTICE that, if you or your attorney do not file a written response to the Application on or before the Response Deadline, the Court may grant the relief requested in the Application without a hearing. No further notice of the Application will be given.

Dated: November 21, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.

/s/ R. Keith Johnson
R. KEITH JOHNSON
1275 S. NC Bus. Hwy. 16
Stanley, NC 28164
(704) 827-4200
NCSB #8840

Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on the below date, the undersigned served a copy of the Interim Application of R. Keith Johnson for Allowance of Compensation and Reimbursement of Expenses and Notice of Opportunity for Hearing for same either electronically or by depositing, enclosed in a postpaid wrapper, to the following parties in interest, at their last known addresses as shown below, in a post office or official depository under the exclusive care and custody of the United States Postal Service:

Clemmer's Construction, Debtor
Via e-mail

Niall T. McLachlan, Esq. (ECF)
Commercial Credit Group Inc.

J. Michael Fields, Esq. (ECF)
Ward and Smith, P.A.

Carl H. Petkoff, Esq. (ECF)
Maynard Nexsen

James David Nave (ECF)
Chapter 11 Trustee

Shelley Abel (ECF)
Bankruptcy Administrator

Dated: November 21, 2023

LAW OFFICES OF R. KEITH JOHNSON, P.A.
/s/ R. Keith Johnson
R. KEITH JOHNSON,
Counsel for the Debtor
1275 S. NC 16 Bus. Hwy.
Stanley, NC 28164
(704) 827-4200
NCSB 8840

Exhibit A

CLEMMER'S CONSTRUCTION, LLC
Michael Clemmer
1402 Mirror Lake Rd.
Lincolnton, NC 28092

Statement Date: November 20, 2023
Statement No. 914
Account No. 535.00
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Interim Statement

Fees

			Rate	Hours	
10/16/2023	RKJ	Initial review of claims of (1) Concrete Supply, (2) Commercial Credit Group (.45);	500.00	0.45	225.00
	RKJ	Letter to Jenkins regarding detail of claim of Concrete Supply (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Bowers regarding status of monthly report (.15);	500.00	0.15	75.00
	RKJ	Telephone conference with Michael regarding review of August monthly report, etc. (.3);	500.00	0.30	150.00
10/18/2023	RKJ	Telephone conference with Michael regarding timing of payment to CCG, etc.;	500.00	0.25	125.00
10/23/2023	RKJ	Telephone conference with BA regarding monthly report for August (.2);	500.00	0.20	100.00
	RKJ	Telephone conference with Michael regarding monthly report, and name pf transferee of road tractor and lowboy trailer (.25);	500.00	0.25	125.00
	RKJ	Attended SoFA (.3);	500.00	0.30	150.00
10/25/2023	RKJ	Telephone conference with Michael regarding sale of CAT excavator, etc. (.25);	500.00	0.25	125.00
	RKJ	Draft motion for extension of time to file Subchapter V plan (.45)	500.00	0.45	225.00
	RKJ	Telephone conference with Ellen Jones regarding repossession of excavator by CAT Financial (.25);	500.00	0.25	125.00
10/26/2023	RKJ	Telephone conference with Michael regarding CAT Financial matter, Cash App account, etc. (.2);	500.00	0.20	100.00
11/08/2023	RKJ	Review BA email request for detail regarding expense acct. (.15);	500.00	0.15	75.00
	RKJ	Telephone conference with Clemmer regarding response (.1);	500.00	0.10	50.00
	RKJ	Telephone conference with Bowers regarding response (.3);	500.00	0.30	150.00
	RKJ	Prepare long letter to BA to provide detail (.5);	500.00	0.50	250.00
11/09/2023	RKJ	Telephone conference with Michael regarding payment of approved Fees, information for BA, etc. (.2);	500.00	0.20	100.00
	RKJ	Review BA objection to extension to file plan (.25);	500.00	0.25	125.00

CLEMMER'S CONSTRUCTION, LLC

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			Rate	Hours	
	RKJ	Prepare letter to Bowers regarding testimony at hearing on motion for extension (.25);	500.00	0.25	125.00
11/10/2023	RKJ	Office conference with client regarding review of bank account info, beginning of plan, etc. (.8);	500.00	0.80	400.00
	RKJ	Draft motion to approve Bowers fees (.2);	500.00	0.20	100.00
11/13/2023	RKJ	Review NC Rev. notice regarding refusal to renew fuel tax license, and Review 11 U.S.C. 525 (.3);	500.00	0.30	150.00
11/14/2023	RKJ	Review Ed Bowers inquiry regarding detail of deposits and expenses (.25);	500.00	0.25	125.00
	RKJ	Review list of receipts and expenses (.3);	500.00	0.30	150.00
11/16/2023	RKJ	Telephone conference with Bowers regarding deadline for plan and monthly reports (.15);	500.00	0.15	75.00
	RKJ	Letter to Abel regarding consent order w/deadlines (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Abel regarding deadline for filing plan and reports (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Michael regarding plan projections, monthly reports, etc. (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Bowers regarding deadlines for plan and monthly reports (.15);	500.00	0.15	75.00
	RKJ	Prepare letter to Abel regarding consent order w/deadlines (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Abel regarding deadlines for filing plan and reports (.25);	500.00	0.25	125.00
	RKJ	Telephone conference with Michael regarding plan projections, monthly reports, etc. (.25);	500.00	0.25	125.00
11/17/2023	RKJ	Attended motion hearing in Shelby regarding extension of deadline to file plan (1.2);	500.00	1.20	600.00
11/20/2023	RKJ	Telephone conference with Bowers regarding monthly reports, drafting plan, etc. (.25);	500.00	0.25	125.00
	RKJ	Draft order to extend deadlines for plan, and for monthly reports (.4);	500.00	0.40	200.00
		For Current Services Rendered		10.55	5,275.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
R. Keith Johnson	10.55	\$500.00	\$5,275.00

Expenses

10/25/2023	Postage & Copies	20.70
	Total Expenses	20.70
	Total Current Work	5,295.70

CLEMMER'S CONSTRUCTION, LLC

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Balance Due

\$5,295.70

Billing History					
<u>Fees</u>	<u>Hours</u>	<u>Expenses</u>	<u>Advances</u>	<u>Finance Charge</u>	<u>Payments</u>
5,275.00	10.55	20.70	0.00	0.00	0.00